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BALDUCCI: Do you want, I mean, do we, I mean we can do whatever we wanna do if you wanna clean that up any, if you think it...

Z SCRUGGS: I don't know how to clean it up other than, uh, 'cause I don't know what he's trying to say. I mean it's not bad, but I'm not sure what his intent was.

BALDUCCI: I'm not sure either.

Z SCRUGGS: Um, you know, something...

BACKSTROM: Maybe that's it. I mean, that, that's probably it. It just, they should have filed the, a demand for arbitration.

BALDUCCI: That's what I interpreted it when I read it, but I don't know.

BACKSTROM: Which he wouldn't...

Z SCRUGGS: You know...

BACKSTROM: ...which he wouldn't normally do...

Z SCRUGGS: ...something that...

BACKSTROM: ...if the other side's willing to arbitrate (UI)

BALDUCCI: Yeah.

Z SCRUGGS: This might be irrelevant now, but something he oughtta know uh, is that, that this whole thing, of course he hadn't sealed it, uh, but created this problem, is they've been atta, they, you know, they attach all

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these crazy ass emails out of context...

BALDUCCI:

Sure.

Z SCRUGGS:

...and...

BALDUCCI:

Sure.

Z SCRUGGS:

...and they been using some of that, and using it in an action that I'm forbidden to talk about...

BALDUCCI:

Well...

Z SCRUGGS:

...that they filed against the Attorney General, STATE FARM is.

BALDUCCI:

I see.

Z SCRUGGS:

Ok, you, ok. (UI)

BALDUCCI:

Yeah. But...

Z SCRUGGS:

But.

BALDUCCI:

...I don't...

Z SCRUGGS:

Citin' SID's email and, and just one little part of it, and you know, just chicken shit shit. I mean, STATE FARM is usin' uh, JOHNNY JONES' action. and all the shit they're gettin' from it. They're gettin' all these internal emails.

BALDUCCI:

Mm-hmm.

Z SCRUGGS:

Uh...

BALDUCCI:

They're using that as discovery

Exhibit T

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in that other matter.

Z SCRUGGS:

(U1)

BALDUCCI:

Yeah, and they're probably intentionally doing that.

Z SCRUGGS:

Fuck yeah. Uh, so, so, so, you know, GRADY might, so these new filings, shit we need to find, that's the thing. We need to find, GRADY mighta just filed, he mighta just put all kinds of crooked shit...

BALDUCCI:

Well, you need to...

Z SCRUGGS:

...that's just it.

BALDUCCI:

...that's all I'm saying is you need to look, get uh, not for purposes of getting this order entered, but you probably all just know anyway from your lawyers what GRADY has filed, but um, I mean the, I guess the the issue...

Z SCRUGGS:

There is no telling. He might pulled all kinds of crazy ass emails, uh...

BACKSTROM:

Well...

Z SCRUGGS:

...trying to (U1)

BACKSTROM:

...I, I think he's, he's probably doing that because he knows that it's causing us pain elsewhere. You know?

BALDUCCI:

Yeah.

BACKSTROM:

I think...

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Z SCRUGGS: Of course that's why he's doing it.

BALDUCCI: It's just a, a pressure point.

BACKSTROM: Mm-hmm.

Z SCRUGGS: Of course it is. But there's, there's gotta be something we can do about that.

BACKSTROM: We could move to seal it, but after this is entered...

Z SCRUGGS: Well what about...

BACKSTROM: We...don't wanna gum up the order

Z SCRUGGS: ...well what do, what do we do about him releasing privileged stuff? I mean there's got, I mean we filed the bar complaint? That, that, you know, that, that he's filin' a bunch of stuff that have nothing to do with his dispute against us to try to get out in the public domain.

BALDUCCI: Or you know, or file, I don't know, yeah, motion for sanctions or motion to seal the file.

Z SCRUGGS: I guess what can we file before LACKEY that he would do uh...

BACKSTROM: I would say after we get this order entered, we say we would like this to be sealed, because there's a bunch of shit in here that is just inflammatory and not helpful to us in connection with the other litigation. But

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I don't think we ask for that now because it's just gonna gum this up, which has been in the works for eight months. You know? (laughs)

BALDUCCI:

Yeah.

BACKSTROM:

I don't wanna throw him a curve ball. Wow.

BALDUCCI:

Yeah. No, I agree. I think the proper way to approach him would be let's get this order entered, and then if you wanna go back to the well later and get it, get an order sealing the file or closing the file or whatever, we can do that later.

BACKSTROM:

Mm-hmm.

Z SCRUGGS:

It says hereby stayed. So is he gonna keep...

BACKSTROM:

Stay, as in compelled to arbitration.

Z SCRUGGS:

What does it mean? That action just kinda stays in this court while that goes...

BACKSTROM:

That's what, that's what we ask for in the first instance because um, there was good reason for doing it. Don't know what it was, but.

Z SCRUGGS:

Well, what if Judge LACKEY retires on the bench and some other asshole gets a hold of it?

BACKSTROM:

Well, if he compels it to

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arbitration, then they gotta wait until arbitration is over with.

BALDUCCI:

Well do you wanna put, do you wanna put in there that the action's dismissed? Put that it's, that it's compelled to arbitration and the proceedings before this court are dismissed?

Z SCRUGGS:

(talking simultaneously) I would (U1) I, that's what I think and thought the court was gonna do.

BALDUCCI:

Just dismiss without prejudice? I mean you can't dismiss it with prejudice, but he could dismiss it without prejudice.

BACKSTROM:

(U1)

Z SCRUGGS:

I think that's what...

BALDUCCI:

Instead of staying it.

Z SCRUGGS:

...he would need to do anyway. But I, I, I don't, uh, I might be overlookin' a drawback to doin' That. I don't know what it'd be, but.

BALDUCCI:

'Course.

Z SCRUGGS:

I mean LACKEY's uh, uh, fine, but you know who the fuck else is gonna get this thing.

BALDUCCI:

Well, That may be what...

Z SCRUGGS:

They might (U1) to move oh, judge, oh, we got a new judge and then...

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BALDUCCI: Yeah.

Z SCRUGGS: ...who knows who is.

BALDUCCI: I don't know that I'll have the stroke with the next one.

BACKSTROM: Mm-hmm.

Z SCRUGGS: Well, shit you know, this is the proper thing to do, uh, uh, it, it's just uh, you know, (UI) it's just so unprofessional, uh, what these guys have been up to, and unethical. Attaching all these uh, things That they're ciphering through and God knows what GRADY's talkin' to STATE FARM lawyers about. Hey, make this, you know, you got so and so, make that, buy that case we can...get all of it.

BACKSTROM: Uh, yeah, I don't know, I guess a dismissal would be better than a, a staying. Um, but I think the staying gonna be fine if he's compelling it to arbitration because then it gets stuck in arbitration and you can't do anything with it after that.

Z SCRUGGS: Well, other than...

BACKSTROM: (UI)

Z SCRUGGS: ...say ok, fine we'll go to arbitration and what, whatever claims we don't think or can construe later weren't done in arbitration are coming back to this court, and then whoever the

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fuck the judge is, you know? I don't know.

BALDUCCI:

Mm-hmm.

Z SCRUGGS:

And, and, 'cause he stayed it, there was no statutes issue.

BALDUCCI:

Right.

UF4:

TRACY LOTT (phonetic) is on the phone for you? (U1)

Z SCRUGGS:

TRACY LOTT?

UF4:

Mm-hmm.

Z SCRUGGS:

Uh...

UF4:

(U1)

Z SCRUGGS:

Is it TRISHA LOTT?

UF4:

Mmm...she said TRACY. It could be TRISHA, but.

Z SCRUGGS:

I, I don't know a TRACY LOTT, and, and the daughter's TYLER, but...

UF4:

You want us to take a message?

Z SCRUGGS:

Yeah, just, just tell her I'm not here and try to get a, make sure who their name is and their number if you don't mind.

UF4:

Ok.

Z SCRUGGS:

Thanks. I don't wanna answer a TRACY LOTT who I don't know anything about by off chances.

BALDUCCI:

(laughs) Yeah, could be.

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Z SCRUGGS:

It could be.. (U1)

BALDUCCI:

God only knows. (pause) Um, the other piece of this puzzle I hadn't told you yet is uh, get it how you want it because I've got to uh, I've gotta go back for another delivery of uh, another bushel of sweet potatoes down there. So. Because of all of this that has come up.

BACKSTROM:

Mm-hmm.

BALDUCCI:

So get it right. Get it how you want it 'cause we're payin' for it to get it done right.

BACKSTROM:

For the reasons set forth above all matters in this cause

(door opens - ZACH leaving)

including all claims hereby stayed. Plaintiffs are hereby compelled to submit all such claims to binding arbitration. That, you know, that's good enough to me. I wouldn't change anything.

(door closes - ZACH left)

I'd just get-get er done.

BALDUCCI:

Alright.

BACKSTROM:

'Cause any, any change I would expect is going to have to be hands rung over it and thought about and things like that, so. I mean, I'll take, you know, ninety-nine percent of what we want.

BALDUCCI:

Yeah, ok.



Dickie Scroggs on his property on the Gulf Coast. After Hurricane Katrina struck, he threw his another's trash—against the monument industry. Photographed by Brian Smith.

THE BRIBE

The most exuberant football rally at the University of Mississippi last year occurred four days after the season ended, when the school's chairman, Robert Khayat, announced the hiring of a new head football coach. A cheering overflow crowd at the school's Center for the Performing Arts welcomed Houston Nutt, whom the university had some how lured to Oxford from the Canton hotel-bound Alabama Razorbacks (who had defeated Ole Miss, as the university understood, 44-6).

For Ole Miss, a relatively small public school in a poor state, a seven-and-a-half-million-dollar deal (as was reported, again to Nutt) seemed an implausible splash, and some sensed the hand of a private benefactor. Khayat acknowledged as much in his opening remarks, promising himself "profundly grateful to Dick Scroggs" whose jet had been used as a shuttle during negotiations. Scroggs was arguably the most successful tort lawyer in America, and a deeply interested Ole Miss football fan. Indeed, as he was called, even by those who'd never met him, lured to face whatever an Ole Miss coaching change was rumored, fans tracked Scroggs's plane on the internet, for him about where the school was looking. If Houston Nutt needed a deal sweeter, Dickie Scroggs, the man who took down Big Tobacco without conducting a single trial, probably had something to do with getting it.

But Robert Khayat was grateful to Scroggs for other reasons, too. Khayat became chancellor in 1995, with the mission of liberating Ole Miss from its past—a perilous ambition at a place where the past was so instantly present, into the nineteen-eighties. Ole Miss embodied an idealized antebellum South. There were plenty of black people on campus but they were caring for the immaculate green—the magnolia-lined Grove—or serving the pots and daggers of the state's white establishment in their Greek-meets-seigniorial fraternity houses. The school's nickname was itself a slave term for the mistress of a plantation. Students dressed for games as if going to church, and cheerleaders towed bundles of folded flags into the stands before the start of each game as the band played a rousing version of "Vixen."

When, in 1962, the federal govern-

ment forced the enrollment of the first black student at the university, James Meredith, Ole Miss became a national symbol of white Southern resistance to the civil rights movement. The U.S. Marshals accompanying Meredith were pelted with rocks and bottles, and, eventually, were targets of sniper fire. Two people were killed, and more than three hundred injured, before federal troops ended the riot. Bayle Marshall, the head of the civil-rights division of the Kennedy Justice Department, called the episode "the final gasp of the Civil War."

By the time Khayat became chancellor, the school's endowment and enrollment had seriously declined. Khayat aggressively raised funds, cutward sales in the academic establishment, and went to work on the school's image. Rebel flags largely disappeared from the football stands, "Vixen" was downplayed, and the school's mascot—(Colonel Reb—was banished from the playing field. In thirteen years under Khayat, the school's endowment has quadrupled, enrollment has increased by about fifty per cent, and, along with the old name of the United States soldiers, a bronze sculpture commemorating James Meredith now holds an honored place on the campus.

The transformation at Ole Miss aroused a good deal of opposition, and would not have happened without support from key alumni, among the most important of whom was Dickie Scroggs. Although he is the brother-in-law of the former Republican Senator Trent Lott—the two men's wives are sisters—Scroggs, who is sixty-one, is a staunch Democrat, and shares Khayat's progressive vision for the school. A few years after Scroggs hit his first litigation jackpot, in 1980, talking on asbestos companies, he asked Khayat what he could do for the university. Khayat, who is seventy, had known Scroggs for most of his life. He had been his multi-grade homeroom teacher in Pascagoula, and was on the faculty at Ole Miss Law School when Scroggs was a student there. The Chancellor told Scroggs that faculty salaries in the College of Liberal Arts were pitifully low, and Scroggs immediately made a twenty-five-million-dollar pledge. After his tobacco victory, in 1997, he coaxed his partner in that effort, an Ole Miss alum named David Nutt, to expand his own.

contribution. Ole Miss professors have since received several generous pay increases. In 2003, the music building, across from the Performing Arts Center, was renamed Scruggs Hall.

Scruggs was not present in November when Niswam publicly thanked him for his help in the coaching search. That morning, a federal grand jury in Oxford returned an indictment charging Scruggs, his son, Zach, and three other men with conspiring to offer a fifty-thousand-dollar bribe to a judge in Calhoun City. That afternoon, Scruggs was fingerprinted, processed, and arraigned.

The reaction to the indictment was incredulous. Scruggs had achieved stardom among trial lawyers—as a visionary, whose counterpart fee would have landed him in debtors, with some credibility, money as the prime motivation. He was said to have scored a billion-dollar fee in the tobacco case. Why would he bother with a sandy little bribery scam? Some speculated that the Bush Justice Department was trying to eliminate a prominent Democratic donor—Louisiana to a Hillary Clinton fundraiser hosted by Scruggs, featuring an appearance by Bill Clinton, had recently been mailed. Others guessed that one of the indicted figures had been caught in a crime and was trying to win leniency by helping Scruggs.

"I'm really at a loss for words, but I am at a complete loss about it," said Jack Palladino, the San Francisco private investigator, who worked with Scruggs in the cocaine wars and came away in admiration. "It can't be that he needed the money. I just don't know what to say about it."

Scruggs and his classmates at Ole Miss now benefited from a career called "wildcat privileges," under which the school's graduates were admitted to the Mississippi bar without having to pass the state exam. This practice (which ended in the nineteen-eighties) heightened the striking inequality of the Mississippi bar, a community of lawyers who mostly knew one another, often because they were vetted by the same contacts professor during first-year law at Ole Miss. Seven of the nine justices on Mississippi's Supreme Court attended Ole Miss Law School, as did Governor Haley Barbour and both of the state's

U.S. senators. Professional and personal relationships within the group are easily tangled. John Grisham, a friend of Scruggs's, was a classmate of one of Scruggs's nieces. Ole Miss Attorney General (and they both sat through Professor Mayfield's class). Barbour, one of Scruggs's fraternity brothers, was his adversary in the tobacco fight. Mississippi lawyers keep score, counting each other's lawyers and courtroom outcomes. Scruggs is not the only one of them to have been portrayed in the news ("The Insider"), or to plot his own pet, but he is the only lawyer notable for both distinctions. Many also note that, although Scruggs is Mississippi's most famous trial lawyer, he never truly was a "trial lawyer at all."

"I can assure you he hasn't tried ten cases to verdict in his life," Bill Reed, a Jackson attorney who is one of Scruggs's closest friends, says. "But he is the master of the deal."

Scruggs finished near the top of his class at Ole Miss Law, and was recruited into the Jackson law firm headed by one of his heroes—William Winter, the leader of the progressive wing of the state's Democrats and a future governor of the state. It was a terrible fit for Scruggs, as was his brief stay at the new big Jackson law firm. He was, by that time, married to Diane Thompson, a dentist's daughter from Texas, and he had served five years as a Navy clerk, flying A-6 attack planes from the deck of aircraft carriers. With little discipline, Scruggs of the U.S. Navy, higher-plank culture as a thing again, attracting the sort of personality that warms midwesterners like Mayfield. Scruggs is inclined to go his own way, and did. He moved to Pascagoula and opened a law office, in a former drugstore.

Pascagoula, on the eastern end of the Mississippi Gulf Coast, is an industrial town in the most cosmopolitan region of the state, and it was the nearest thing to a home town that Scruggs had known. He was born in 1946 in Brookhaven, up in the Big Bay area. ("We were so poor," he likes to say, "that if I hadn't been a boy I wouldn't have had anything to play with.") His father, Tom Scruggs, left when Dilke was five, and his mother, Helen, eventually found work as a secretary at a hospital shipyard, in Pascagoula. Dilke lived there for four years before going to a military school in Georgia, on a scholarship. Now back in Pascagoula, where his mother still lived, Scruggs made his first foray from the legal shipyard. In the nineteen-eighties, the growth of Scruggs's fraternity brothers, was his adversary in the tobacco fight. Mississippi lawyers keep score, counting each other's lawyers and courtroom outcomes. Scruggs is not the only one of them to have been portrayed in the news ("The Insider"), or to plot his own pet, but he is the only lawyer notable for both distinctions. Many also note that, although Scruggs is Mississippi's most famous trial lawyer, he never truly was a "trial lawyer at all."

Scruggs's innovation helped to open the litigation floodgates in Mississippi, and the name became a principal battle-ground in the national political fight over tort reform. Mississippi has an elected judiciary, and as settlement money rolled in, the plaintiff bar began investing it in the campaigns of plaintiff-minded judges. Lawyers would then shop for friendly judges. Jefferson County (pop. 97,400) became so attractive to the tort bar that seventy-three mass-action lawsuits, representing more than three thousand plaintiffs, were filed there in 2000. The American Tort Reform Association calls such tortious but spurious judicial battles "junk lawsuits." In a panel discussion hosted by *Prudential Financial* in 2002, Scruggs explained the development.

The trial lawyers have established relationships with the judges that are devoted. They're State Court judges; they're popular. They're got large populations of voters who are to the trial lawyers. They're getting their piece in their jurisdiction, and it's a political force to get a fair trial. It's not a distributable of these pieces. . . . The cases are not won in the courtroom. They're won on the back table long before the case goes to trial. Any lawyer that out of law school can walk in and get a case, and win the case, is not a doctor matter what the evidence of the case is.

The major asbestos companies were bankrupted, and the tort bar turned to pharmaceutical companies, filing lawsuits on behalf of clients who were not always legitimately injured parties. "That is what I call the asbestos phase," Capt. says, "or what some others call killing the goose that laid the golden

egg." The U.S. Chamber of Commerce and big businesses began pouring money into the campaigns of industry-friendly judges, and into those of politicians who promised tort reform. Haley Barbour made the issue a priority after he was elected governor, in 2003. The Mississippi legislature passed his tort-reform program, which severely limited liability.

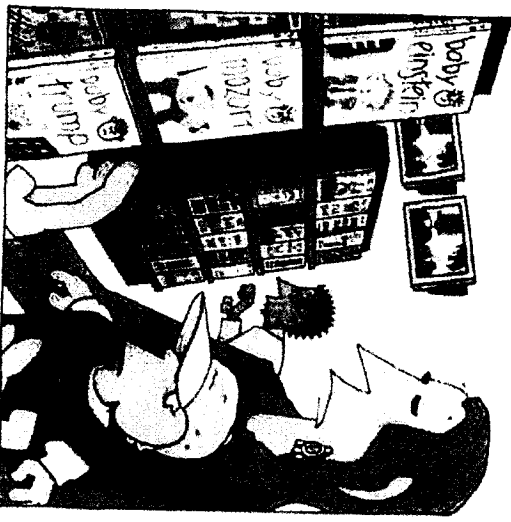
Scruggs did not join the Big Pharma litigators. He prefers only primary sources. He said in a 2002 interview with the magazine *Chief Executive*, "I don't want to get there after the antelope has been brought down."

Scruggs began to formulate his own brand of litigation, entrepreneurial and boldly speculative, of which the actual practice of law was only one part. The strategic manipulation of politics and public opinion was, just as important to this enterprise—"a three-legged stool," as Scruggs described it to colleagues. By exerting pressure at key points, he could see to it that defenses collapsed and opponents settled without a jury ever having a say. He created a sort of floating

legal practice, with changing players and big businesses began pouring money into the campaigns of industry-friendly judges, and into those of politicians who promised tort reform. Haley Barbour made the issue a priority after he was elected governor, in 2003. The Mississippi legislature passed his tort-reform program, which severely limited liability.

The most important player in Scruggs's informal practice was his law-school classmate Mike Moore, the attorney general of Mississippi. Moore was another Pascagoula, a crisscrossing prosecutor who was part of a team of young progressive attorneys who took office in 1988. Moore and Scruggs cultivated a means of exploiting the asbestos issue to their mutual benefit. Moore, as the top legal officer of the state, hired Scruggs, on a contingency basis, to press the asbestos liability suits to pay for removal of the material from public places. Scruggs received a fee of several million dollars for his effort.

The asbestos model proved useful when Moore, early in his second term, went after the manufacturers of cigarettes. He had received a call from another Ole Miss Law classmate, Michael Lawton, an attorney in Clarksville, who proposed that the State of Mississippi sue tobacco companies in order to recover the money Medicaid costs and other state costs



spent on health care for sick smokers. Big Tobacco had for decades hoarded as the untarnished prize for trial lawyers: despite the overwhelming evidence of the hazards of tobacco, plaintiffs had never won damages against the industry. To Moore's principal defense was "assumed risk"—the argument that, even if cigarettes did cause harm (an assertion the tobacco companies did not fully concede), smokers assumed all risk by deciding to smoke. These defenses could not be used against a state, which had no choice in the matter of paying smokers' Medicaid costs. Moore depized Scargis to develop a Medicaid suit, which Moore filed in Pascagoula in May, 1994. (Scargis later remarked that it was like having a chance to be the first man to walk Mt. Everest.) The suit's premise was innovative, but more important was the contribution of two tobacco smokers, who guided Scargis and Moore to the industry's pressurized points. The first was Merrill Williams, a former paralegal at a Kentucky law firm that had been hired by Brown & Williamson, the producers of Kool and Viceroy cigarettes, to review potentially incriminating internal documents. The material included evidence that the company had known of tobacco's addictive and injurious effects for at least thirty years, and had hidden the information from the public. Williams clandestinely removed documents from the firm, and ultimately hid them at a friend's house in Florida while he tried to find a way to bring the information to light. But the threat was soon discovered, and a judge ordered the material sealed and returned. Williams and his documents became untouchable (he vainly approached several attorneys and journalists) until he met Dickie Scargis. Scargis flew with Williams to Florida on his jet, and removed the purported documents. Williams was out of work, and Williams, Scargis invited him to the Gulf Coast, found him housing and a boat, and paid him thousands of dollars in what he called "fees."

"Dick didn't get where he got by asking permission," one Scargis ally said. "He got where he got by counting on asking for forgiveness, if he needed to." The second tobacco insider was Jeffrey Wigand, a former Brown & Williamson scientist who also had incrementing in foreman, and who could serve as an interpreter of the Williams documents. In 1994, the NEW YORKER, MAY 9, 2006

A PRIMER

I remember Michigan finally as the place I go to be in Michigan. The night band of America waving from maps or the left pressing into day a mold to take home from kindergarten to Mother. I lived in Michigan forty-three years. The state bird is a chained factory gear. The state flower is Lake Superior, which sounds epigrammatic though it is merely cold and deep as truth. A Midwesterner can use the word "ruth," can sincerely use the word "sincere." In truth the Midwest is not mild or west. When I go back to Michigan I drive through Ohio. There is off I-75 in Ohio a mosque, so life goes corn corn corn mosque, I wave at Islam, which we're not getting along with on account of the Towers as I pass. Then Ohio goes corn corn corn billboard, goodness, Islam. You never forget how to be from Michigan when you're from Michigan. It's like riding a bike or ice and fly fishing. The Upper Peninsula is a spare state.

Wigand had signed a seemingly airtight confidentiality agreement after he took a buyout from the company. Scargis made an offer Wigand had legal services without charge, and helped facilitate Wigand's appearance in a controversial segment of the CBS broadcast "60 Minutes." Any evidence and testimony provided by Williams and Wigand in a trial would certainly be contested as hopelessly tainted, but if the Scargis formula succeeded, a trial would be avoided. Scargis and Moore spent nearly two years traveling around the country, lobbying other state attorneys general to challenge the constitutionality of Congress and the Clinton White House, trying to fashion a national tobacco withdrawal. The team had added other lawyers to the effort, but Scargis was paying most of the bills, and by 1996 he was beginning to feel the strain. "I was risking a career," Moore recalls. "But he was risking all his money. And when I say 'all his money,' what people don't know is, he put all his money in J. Paul, all his money, Moore, gaged his house. He was all in." Scargis approached other members of the plaintiffs bar, offering a piece of

the tobacco action in exchange for an advance investment to defray expenses. Few agreed. Finally, Scargis made an incredible offer to a prominent Jacksonville attorney, David Nien, who pledged several million to the effort, in return for a share of potential fees equaling Scargis's.

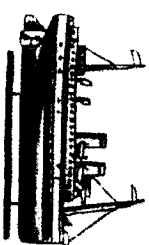
The Mississippi Medicaid case was set for trial in July, 1997. By then, the national mood had become sharply anti-tobacco, and the industry decided to buy peace. The case was settled for nearly four billion dollars, and was followed by settlements in Minnesota, Texas, and Florida. Four tobacco companies split the cost. The tobacco industry eventually reached settlements with the attorneys general in the remaining forty-six states. In all, the industry agreed to pay two hundred and forty-six billion dollars to the states over twenty-five years, in return for freedom from future lawsuits. Scargis's fee over twenty-five years is estimated at close to a billion dollars.

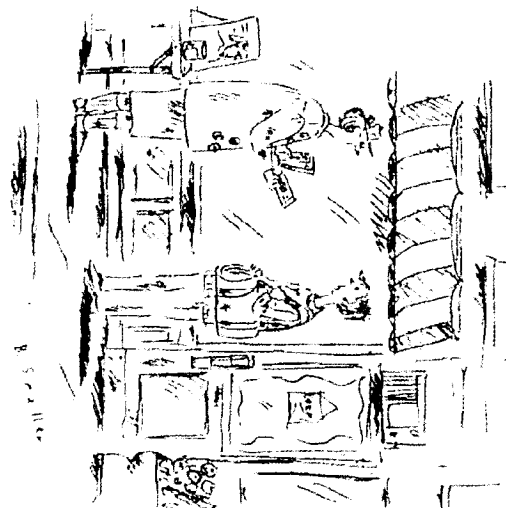
Three days after the federal grand jury indicted Dickie and Zach Scargis, along with their law partner, Sidney Blackstone, and two associates, the Scargis family housed one of the biggest social events of Oxford's holiday season, a Christmas party attended by more than two hundred people. When guests arrived at the Scargis home, they were greeted by Dickie and Diane as if nothing were amiss. "They did a pretty good job of carrying it off," one guest recalls. "Diane looked a little pained, but Dickie put his brave face on. The guest list comprised the Oxford elite, who fully understood the game. 'Everybody was very much even, but nobody was talking about it,' one friend recalls. 'Everybody was trying to make a point of dealing with other things.' By the end of the night, the party had achieved something the annual holiday party.

Such events are a large part of the reason that Scargis had moved to Oxford from Pascagoula, four years earlier. The town had changed drastically since Scargis attended Ole Miss, when Oxford was a dull, provincial place known mostly for William Faulkner and the national reputation of the integration riot. Students outnumbered it Ochsides. But as baby boomers prospered and began sending their children to Ole Miss, they brought parents and built condos near campus for use during four-

in case Michigan goes flat. I live now in Virginia, which has no backstop plan but is named the same as my mother. I live in my mother's again, which is creepy, but so is what she's under my chin is doing, suddenly there's a pouch like mumpsplabs are needed. The state got it spring. "Oxford, we benefited there, rise and give us back all!" is how we might sound were we Egyptian in April, when February hasn't ended. February is thirteen months long in Michigan. We are a people who by February want to kill the day for being so gray and angry at us. "What did we do?" is the state motto. There's a day in May when we're all runblers, gymnastics is everywhere, and daffodils are asked by young men to be their wives. When a man elopes with a daffodil, you know where he's from. In this way I have given you a printer. Let us all be from somewhere. Let us tell each other everything we can.

—Bob Hiest





"I would be an animal-rights activist, but I have allergies."

like the Dickie Scruggs that I know. . . . When you know Dickie, and how successful he has been, you could not believe he would be involved in such a bone-headed bribery scam that is not in the least sophisticated."

The central figure in the alleged bribery conspiracy was not Dickie Scruggs, or his son, Zach, or even Blackston, their law partner. It was a thirty-nine-year-old lawyer named Timothy Baldacci, from the tiny town of New Albany, about forty miles east of Oxford. The government claimed that Scruggs had facilitated a conspiracy to bribe local circuit-judge Henry Lasky, in the hope of getting a favorable ruling in a lawsuit over an attorney's fee dispute. But it was Baldacci (who was not a party to that case) who approached Judge Lasky, promised him a payoff, and delivered the money to him. The indictment quoted Baldacci's letter to Lasky, in a conversation that was obviously recorded, about how close he was to Scruggs. "My relationship with Dick is such that he and I can talk very private about these kinds of matters," Baldacci said. "He and I, um, how shall I say, for over the last five or six years there, there are bodies buried that, you know, that he and I know where they are."

Baldacci was an outsider in Scruggs' Oxford social sphere, where it was assumed that he was a troubled person who had tried to exploit a peripheral relationship with Scruggs in order to buy money. The Scruggs defense lawyers soon advanced this notion themselves. "It's a situation Tim Baldacci did have," Tim Parker, Zach's lawyer, said. "After he got apprehended, he decided to visit and turn things around and implicate others that were not involved."

The day after those arrests were published, P.M. again noted the law office of Joe Langston, Scruggs' principal attorney. It was a stunning event, given the sanctity of attorney-client privilege. The trial was engineered by the lead prosecutor on the Scruggs case, Assistant U.S.

Attorney Tom Dawson. Dawson's office was sensitive to charges of Bush Justice Department prosecution of recent public-employment prosecutions, more notably the controversial conviction of Alabama's Governor Jebb Shugart, a Democrat, in 2006. Bill Clinton had cancelled his Obedient trial after the Scruggs indictment, and Dawson believed that he needed to make it clear that the case was about corruption, not politics.

Dawson's means of achieving this aim was a provision in the Federal Rules of Evidence called Rule 404 (b), which allowed prosecutors to introduce evidence of other alleged crimes in order to demonstrate a defendant's motive or criminal intent. It is a favorite device of Democrats (perhaps other than Cheney, Thore, and McCain) on the square, hence the Mississippi Revenue 404 (b). Within a month of the trial on Joe Langston's office, Langston was standing in federal court in Oxford, contesting to having participated in trying to corrupt another judge, on behalf of Scruggs.

As Dawson explained it to the judge, Langston had represented Scruggs a year earlier, in yet another dispute over attorney fees, in a court in Hinds County, where the state capital, Jackson, is situated. Langston, working with his then associate—none other than Timothy Baldacci—and a former Mississippi rare auctioneer, Steve Patterson, paid fifty thousand dollars to Ed Peters, a close friend of the Jackson judge, in the hope of influencing the outcome of the fee-dispute case. The judge—directing a special master's recommendation—found that Scruggs owed the plaintiff roughly fifteen million dollars—essentially ruled for Scruggs, saying that he owed the plaintiff nothing further. Langston pleaded guilty, and no one else has been charged. (Scruggs and Patterson deny any wrongdoing; Peters could not be reached.)

Many in Mississippi had found this development even more disturbing than the original accusation against Scruggs. The Jackson judge who had allegedly been influenced was Bobby DeLaughter (Ole Miss Law '77), a Mississippi-born and a just uniformly regarded as thoughtful and honest. In the mid-1970s, DeLaughter had received the cold case against Flynn De La Beckwith, who had twice been acquitted

by Mississippi juries of the 1964 killing of the civil-rights activist Medgar Evers. (Alice Baldacci portrayed DeLaughter in the movie "Ghosts of Mississippi.") According to the Langston plea robbery, it wasn't necessarily the money exchange that had allegedly influenced DeLaughter in the Scruggs case. DeLaughter was known to court an appointment to the federal bench, and based on this knowledge, Dawson said, at the hearing, "Scruggs told Langston to let the judge know that if he ruled in his favor, he would pass his name along for consideration regarding the federal judgeship." Everyone knew to whom the accusation was referring—Trent Lott.

The families of Lott, the Republican whip in the Senate, and Scruggs were close. Lott's Thanksgiving gathering that year had taken place at Sub Rosa, an antebellum plantation near Poplarville, Mississippi, which Patricia Lott had purchased in 2003. She bought the place with a \$1.5 million loan from Dave Scruggs, who holds the deed on the property. Scruggs would have known that he could count on his brother-in-law to make a telephone call to DeLaughter, and Lott subsequently did call the judge. (DeLaughter, whose residence on the bench has been temporarily suspended pending an investigation, has denied any wrongdoing, as has Lott, who says that he cautiously made calls regarding potential federal judgeships and never recommended DeLaughter.)

Two days before the Scruggs indictment, Lott announced his resignation from the U.S. Senate. In order to become a Washington-based lobbyist, ("There's a time for everything and everything—a special time for everything under heaven," he said.) In Oxford, the DeLaughter development, and Lott's involvement, cast a new perspective on events. "I went and the Book of Ecclesiastes," Curtis Walker, a professor at Ole Miss, and a friend of Scruggs, said. "But it was more like Revelations."

It is the war against the tobacco companies, Scruggs assembled a collection of lawyers, fixers, cronies, and white-shirts, who joined him with the prospect of sharing in the payoff. When the bonuses materialized, Scruggs was overwhelmed by claimants who believed that they had his warrant for a white Mike Moore re-

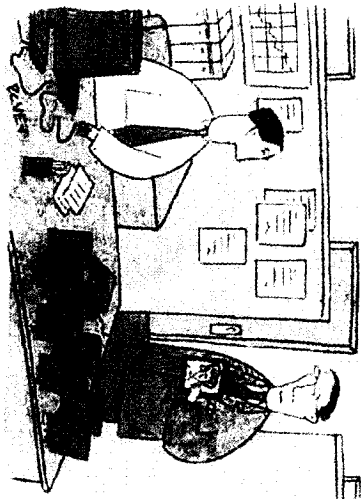
ally. "He would say to me, 'You know what I really feel like doing? I really feel like throwing all the money I've made in a big pile, and just calling everybody up and telling em, 'I'll come get what you think is yours, and just leave whatever you think is mine.'"

Scruggs had promised to distribute bits and pieces of the legislature's proceeds as needed, sometimes so casually as to invite later dispute. He wanted legislation substantiating his billing, an unlikely prospect in a state whose governor, Kirk Fongde, so opposed the tobacco litigation that he is said to have refused to endorse the check when Mississippi's case was successfully settled. In 1994, Scruggs hired (his uncle and his grandfather had been Mississippi governors) with deep connections in the legislature. Johnson says that Scruggs promised him ten percent in any settlement if he could sway lawmakers toward the Scruggs position. A Medicaid bill was pending in conference, and Johnson had friends on the committee. Johnson, who was not a legislator, or even a registered lobbyist, wrote an amendment to the bill, giving Moore the authority to have plaintiffs sue on a contingency basis. "I just made several phone calls and told them what I wanted to do, and they said, 'Send us the amendments.' Johnson recalls. "So I sent 'em, and they were inserted."

And I did it with just a handful of words, artfully placed."

After the settlement, Johnson wrote to Scruggs, suggesting that they meet to discuss Johnson's payment. When Scruggs didn't respond, Johnson drove down to Pascagoula, but Scruggs refused to see him. (Scruggs, through his attorney, disputes this account.) Johnson filed suit against Scruggs, but Scruggs had the case transferred to Pascagoula, where it was dismissed. Johnson could of course appeal, but he says that one day he received a call from the blue from a man named P. L. Blake, urging him to drop the case. "It's a kind of a shakedown, so to speak, that nobody ever sees," Johnson says. "It's a character. A Deep Throat kind of a guy."

Blake had risen from a hardtable childhood in Webb, Mississippi. He played football at Mississippi State, and then in the Canadian Football League. When he returned to Mississippi, he made his way into the political sphere of the state. Scruggs, through his attorney, paid Blake a substantial fee for his connections into business ventures. In the mid-1990s, Blake had a series of financial and legal setbacks which resulted in bankruptcy and a bank financial conviction, but even then he was able to call upon powerful friends. One of his main



"I broke up with another one. Do you want her picture, too?"

trial lawyers was Fred Thompson, and he was represented in his bankruptcy proceedings by Dickie Scruggs, who made monthly loans to his bankrupt client, eventually running up thousands of dollars, ultimately, the debt amounted to more than a million dollars.

According to Pete Johnson, Blake implied him to drop the Scruggs matter. Johnson was inclined to quit the suit anyway. (He had received a liver transplant, and his prognosis was uncertain), and told Blake as much. "He wrote me a check for a hundred thousand dollars," Johnson recalls. "I said, 'Do you really want me to take this money? And he said, 'Please, Please take it.' And that was the last time I talked to him."

Other Scruggs money fights were not as easily resolved. By 1994, as Scruggs was getting up for the tobacco litigation, two of his former partners in the tobacco enterprise, Alvin Lasker and William Robert Wilson, had sued him, claiming that he had cheated them of their right to share of fees. Scruggs brought the lawsuit, in a legal battle that lasted a dozen years, wrestling through several years and federal courts. An attorney for the plaintiff, Charlie Merkell, deposed Scruggs five times over the years in an effort to determine how much Scruggs made on tobacco, how he spent it, and with whom he shared it. When Merkell pressed Scruggs as to why he had lent so much to bankrupt clients—P. L. Blake—without collateral, Scruggs replied, "He needed the money." Scruggs was no more forthcoming about what Blake had done to earn a piece of the tobacco payment that could reach fifty million dollars. (The tobacco litigation was a win. Scruggs explained and he needed people like Blake, who had "his ear to the ground politically" in this state and in the South generally.)

Friends of Scruggs say that the prominent disputes were just down, and that his family wanted the matter settled. But Scruggs refused to surrender any unimpaired tobacco money. "All the people who tried to get a piece of tobacco, he lured on, an attorney who represented Scruggs in yet another lawsuit says, "The just desisted am. I mean, he was not rational about them. I don't think I will don't believe that he would do anything illegal to beat em. But he would spend as much as it took to beat em, even if it would be suicide to settle it. A judge eventually

ordered Scruggs to pay seventeen million dollars to Lasker; the Wilson case ended in the Jackson conviction of Judge Bobby DeLaughter.

After the tobacco settlement, Scruggs fell into a slump. He had more money than he could spend, and was fully stocked with yachts, planes, and a collection of law books. (He described to his brother of law a recent dimension.) "It's not often in life that you have a chance to make a mark on humanity," he said after the tobacco victory, and looked for the next great crusade. It arrived on the morning of August 29, 2005, when Hurricane Katrina made landfall on the Mississippi coast.

Katrina's peculiar ferocity was in surge, a mass of cold water nearly three stories high and its miles thick. Hurricane winds will smash things up, but water can level a whole community and carry it away. The Mississippi coast, accustomed to hurricanes, was unprepared for a surge like Katrina's. More than two hundred people were killed there, but the storm also carried a second disaster. Much of the destruction of the coast was plurally caused by the surge, and beachfront homeowners' insurance policies do not cover damage caused by flooding. The federal government offers flood insurance to property owners, but few property owners on the coast had the coverage. Many properties were destroyed, down to the concrete slab, and it was almost impossible to determine whether the damage in these "vib cases," as the insurance industry terms them, was caused by water or by wind or by both.

"The wind-and-water issue was just absolutely an unworkable situation," George Dale, who had been Mississippi's insurance commissioner for thirty years when Katrina struck, says. "If there's a regular hurricane that knocks things down, the insurance company comes in, pays what it owes, and people go back to their houses. But when there is an issue of a water surge, or winds and water, there is no way to determine the



percent of that house or business that was destroyed by water."

The insurance companies determined that most of the lab cases were water cases, and, thus, excluded from full coverage. In instances where structures were still standing but had been damaged by a combination of wind and water, property owners were granted only fractional relief.

The situation invited a Scruggs intervention, and he was on the coast almost as soon as the water subsided. His waterfront home in Pascagoula had been destroyed, as had Trent Lott's. "This one was very personal to him," Mike Moore says.

Scruggs set up a toll-free number and hired a bank of operators to handle the incoming calls. He had signed up Lott as a client, as well as the Democratic congressman Cato Taylor, who also lost his home to the storm, and Louis Gaudin Jr., a federal district judge. Scruggs was featured in a long article in the New York Times, in which he declared, "I'm not going to let this fill me. I'm going to bring every organizational and legal skill I possess to make these guys do the right thing under their policies."

Scruggs announced that he would bring suit against the major insurance carriers on the coast, and he assembled a team, which he called the Scruggs Katrina Group. The core members of the group were mostly veterans of the tobacco battle, including David Nutt, who once again bankrolled the venture. A newswriter brought him the group to develop legal theories and write letters for litigation, was a Jackson lawyer named Johnny Jones.

To serve in the group, Jones was a surprising choice. He had a small practice in Jackson, in an old house near the Capitol, with a casual atmosphere that reflected his style. With lengthy gray hair and the slight quiver of a smile, Jones was known as one colleague put it, as "an army-casualty sort of guy—and he writes, too." He had little experience in mass torts, and none in the sort of undertaking in which he was now involved in pro se. As a young lawyer in the mid-eighties, he had done some asbestos work with the matter in the field. Danny Cuyler, but he was deterred by the administrative nature of the work. When he saw all

the money that Scruggs and the others were making at it, however, he promised his wife, Mary, and the younger partner in his firm that if the right chance came along he would take it. The Katrina project seemed right. "It was just an insurance-company battle, a battle of Mississippians," Jones says. Jones had spent much of the previous year in close contact with Scruggs, defending him against the far claims of Alvin Lasker and Bob Wilson. Although Scruggs had been ordered to pay seventeen million dollars in back asbestos fees, Jones protected Scruggs's tobacco money. When Scruggs asked him to be part of the Katrina group, Jones went to work on legal theories, figuring that four or five cases would need to be tried, and won, before the insurance companies would settle.

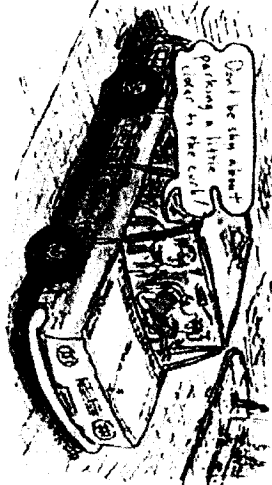
If things went as Scruggs hoped, Jones's contribution would be the least important component of the Scruggs Katrina Group's efforts. Within a few weeks of the storm, the Scruggs group had signed several hundred clients, and was actively pursuing whistle-blowers. By December, Scruggs was ready to test his case. He went to see George Dale, the insurance commissioner, and his deputy, in Dale's office in Jackson, and he was blunt. According to Dale, Scruggs said that there was a war coming between the insurance companies and the aggrieved people of the coast, and Dale needed to choose a side. "He proceeded to say, 'Now, you know that they're saying some bad things about you—they're referring to you as the commissioner for insurance, rather than as the commissioner of insurance.'" Dale recalls.

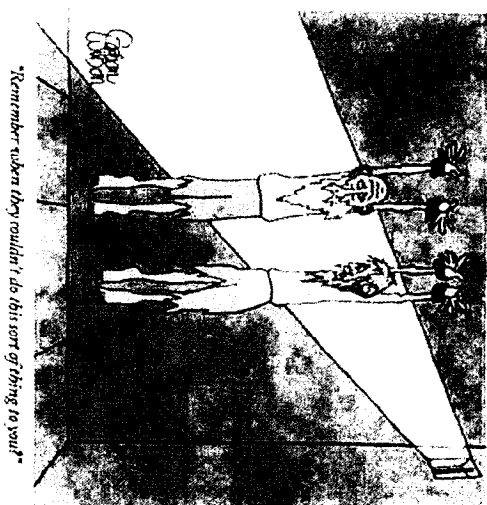
Scruggs then laid out his strategy for going after State Farm, the state's largest insurer. He would use the same strategy he had used with tobacco. Dale says, "He said, 'You also know that I have all this inside information of all this wrongdoing that these insurance companies have done.' And I said, 'Well, Dickie, you ought to turn that over to the project folks.'"

Dale says that Scruggs told him he'd already gathered more information showing that State Farm wasn't playing straight with property owners. "And then he proceeded to say, 'What I want you to do is, I want you to make State Farm put five hundred million in a

SKETCH BOOK BY ROZ CHAST

WALD the IMPLIER





"Remember when they couldn't do this sort of thing to you?"

find, which I would administer, and I will pay the claims on the coast. To which my answer was 'Diddle, I can't do that.' (Scruggs laughs. Diddle's account of the conversation.) The meeting ended, and Scruggs left. And from that point forward," according to Diddle, Diddle's intent was to get rid of me as a communist of insurance, at which he succeeded." (During Diddle's Democratic primary race last year, Scruggs took out a full-page newspaper advertisement depicting Diddle as a pig, including with insurance companies, under the headline "FISTICK ON A PIG.")

Scruggs did obtain inside information about State Farm—volunteers of its, delivered to him by Cort and Kent Ragby, attorneys who were working as adjusters for a firm contracted by State Farm. The Ragby sisters, who were underemployed at a former Scruggs client, claimed to have witnessed the firing by a State Farm insurance adjuster of an engineering firm that had accumulated storm damage to wind, rather than to water. The sisters, suspecting fraud, began to copy State Farm files and, after opening with Scruggs, started to live the put-out company material to him. After a large data delivery in June, 2006, the Ragbys were fired by their firm,

and hired by Scruggs as "consultants," at an annual fee of hundred and fifty thousand dollars each.

Scruggs contacted the State Farm material and passed it on to Jim Hood, a protégé of Mike Moore's who in 2003 had succeeded him as attorney general. Moore, who had entered private practice, was in close contact with the Scruggs Karma Group, and was also directly assisting Hood. Hood opened a criminal investigation into State Farm.

In August, 2006, the Scruggs group actually tried a case in court, winning a nominal victory—an additional payment of twelve hundred and twenty-eight dollars for a Scruggs client from the Nationwide insurance company. More important developments, however, were occurring outside court. Trent Lott and Gene Lipton, the Democratic congressman who had also lost his house in the storm, introduced legislation to the Homeland Security Appropriations bill which would require investigations of the insurance industry. Charles Chammah, the C.F.O. of a national insurance trade association, has claimed that Lott had threatened him, in a telephone call, with "hanging down State Farm and the ladyman." Lott was

co-sponsored a proposal to strip the insurance industry of an antitrust exemption that had been in place since the nineteen-thirties.

Meanwhile, the Ragby sisters were featured in an ABC News episode of "Karma" insurance fraud, broadcast on the prime-time program "20/20." Warning State Farm whistleblowers, the sisters told of decessed reports, shredded evidence, and widespread malfeasance on the part of State Farm. Cort Ragby said, "Karma was devastating, but so was State Farm." (A judge ultimately disqualified them as witnesses.)

On November 14, 2006, in a television interview with the other members of the group, Scruggs announced that State Farm had tentatively agreed to a written settlement. The company would pay eighty-nine million dollars to settle the claims of the Scruggs group's six hundred and forty clients, and \$26.5 million in attorney's fees. State Farm also agreed to settle a separate class action on behalf of other coast residents, Scruggs said, which could produce another ten million to twenty million dollars for the group. (This settlement was later rejected by a federal judge.)

Jones had been known about the Ragby sisters, and he hadn't been revealed in the negotiations with State Farm. He felt that the small firm had suffered without his services, and he had been ignored whenever he asked for an advance on potential earnings. He figured that if the fees were shared equally, he and his firm would receive about four million dollars. A few weeks after the teleconference, according to Jones, Scruggs called him to discuss his split. "We've agreed to pay you a million dollars off the top," Scruggs said. Jones said that he was delighted, assuming that Scruggs was advancing him a portion of the settlement. He had been through the holidays, "I said, 'O.K., that's mighty nice. I appreciate that. How are we gonna split up the fees?' And he said, 'Well, that's all yours gonna get.'" Jones recalls, "And I said, 'No, it's not all gonna get.' Diddle said, 'Jones wrote Scruggs a letter convincing him to agree with Scruggs' reasoning, the firm of a months-long exchange of e-mails and letters aimed at resolving the dispute. Jones repeatedly urged that the group turn the issue over to arbitration, as provided for in the agreement, in no small

The settlement was finalized in January, 2007, and in March Jones and his partner, Steve Funderburg, were summoned to a meeting in David Norris' office, to resolve the fee dispute. They were told that the rest of the group had agreed to waive them out if they didn't accept a ten per cent share, which Jones calculated as \$1.3 million.

Jones was desperate, and said that he thought of going up the law. "I was too stupid to have seen it coming," he says. "Who needs a lawyer like that? Instead, Jones and Funderburg decided to sue Scruggs and the group. Jones really saying to himself, 'I'm just gonna make sure that these guys that I trusted never practice law again as long as they live.'"

Jones filed suit in Oxford, to minimize the embarrassment that the dispute could cause Scruggs. To represent him in the lawsuit, and to write the complaint against Scruggs, Jones hired Grady Tolson, who had been practicing in Oxford for decades. Until the arrival of Scruggs, whom some in the Oxford legal community considered "a come lawyer," Tolson had been the lawyer on the square. He had bought his building, a historic structure called the Thompson House, in 1973, with Robert Nix, who was then a young law professor. Tolson retired to Scruggs' new home as "The Taj Mahal," and Scruggs spent on the building that Tolson spent on the building that he bought his firm. Tolson's mood was not improved when the Thompson House, across the square from Scruggs' building, partly collapsed last year. But Tolson's objections to Scruggs represented something deeper. Tolson was a traditionalist, a former president of the state bar who doggedly in the practice of law—the courtroom and the judges, the legal group exchanged in early morning had lunches. "I know some old lawyers who've read hundreds of cases—they're my friends," he would say, making it clear what he thought of the "three-legged stool" approach to the law.

In his complaint (by Jones, Tolson secured Scruggs and his Karma Group of conspiring to lure Jones into the venture in order to exploit his legal skills, only to freeze him out on fees), Tolson indicated that the means in trade before the court the history of

Scruggs's money fights with his former associates, a spectacle to which Jones, who had demanded Scruggs in just such a dispute, would be able to lend revealing insight. The Tolson filing charged Scruggs and his confederates with numerous infamies, and concluded, "A winning bet should not be allowed to succeed."

The Jones complaint was filed on March 15, 2007, and was full of the topic of discussion inside the Scruggs firm several days later, when Tim Baldacci and his new law partner, Steve Patterson, paid a visit to the firm. The pair had become an increasingly familiar presence around the firm, a fact that would have surprised many of Scruggs's old friends. As state auditor in 1992, Patterson had examined Moore's hiding of Scruggs to represent the state in the asbestos litigation, Moore, in turn, had Patterson out of office for a car-tag scam. Patterson was not a licensed attorney, yet he was now a full partner in the Patterson-Baldacci firm.

Baldacci was later lampooned as a Diddle-Scruggs wannabe, and the bespectacled, wackwacked, ambitious lawyer might not have departed that party. He had practiced for a time with Scruggs's ally, long Langston—an accusation that introduced him to the world of big-money cases and the corporate jet life-style—but he left Langston at the end of 2006 to start his own firm, trying to create the impression of a politically connected practice in the Scruggs-Langston league. He brought in Patterson as a rainmaker, and persuaded several familiar names in Mississippi political and legal circles (including a former governor) to accept "of course" stipends, using them for letterhead stationery. Baldacci and Patterson opened offices in New Albany, Oxford, and Washington, D.C., and set up an elaborate Web site that suggested the resources and talent of an established and prosperous firm. In fact, Baldacci had big startup expenses and few paying clients, and when income the had came substantially from the odd jobs that Scruggs tossed his way.

Baldacci knew that Jones had been squeezed out of the Scruggs Karma Group, and he hoped that he might be able to do it. When the subject of the Jones lawsuit came up during his visit to the

Scruggs firm, and it was suggested that Baldacci might be able to help, he was eager to volunteer his services. The case was to be heard by the circuit court judge Henry Lackey, whom Baldacci had often characterized as a minor and nervous infamist, and concluded, "A winning bet should not be allowed to succeed."

In Mississippi's casual society, lawyers see judges on hunting trips and at cocktail parties, and sometimes visit them privately in chambers. Occasionally, talk turns to the subject of a case pending before the court. Such a pure communication—or "carving up," as it more commonly known—is a technical violation of ethics standards, but it is hardly rare, and is usually harmless. When Grady Tolson filed the Jones lawsuit, he bumped into Judge Lackey in the clerk's office, and asked him to keep the case under seal for a few days, to give the parties a chance to write, Lackey, who didn't like lawyers arguing their dirty laundry in fee disputes, agreed. Technically, Tolson should have filed a motion, to which the defendants would have had the chance to reply, but in all likelihood they wouldn't have objected anyway.

Baldacci wanted to influence a judge presiding over a case in which he had no role, but he did not set out to bribe Judge Lackey. Nor would he have had reason to think that Lackey would have counteracted an illegal outcome.

Henry Lackey was a well-showered "deep-water Baptist," a deacon in his church, and a member of the state Commission on Judicial Performance. He lived in the small town where he was born, Calhoun City, where his parents had owned a Bear Brand five-and-dime store. He made early-morning horse-pot deliveries from his vegetable garden to the local vendors. At seventy, he had a full head of silver hair, and spoke in a slow, soft even voice. He answered his own phone and drove around his circuit in a used GMC. When Lackey was a firm conservative, but in his court an outspoken Democrat like Grady Tolson could count on a fair shake. Lackey lived Tim Baldacci, and he knew that his young friend was having a difficult time. When Baldacci called and asked for a meeting with him to

discuss a personal matter, Lackey was happy to oblige. On March 28th, Baldacci met Lackey in his office, and told him that he thought the Scroggs side in the Jones case was the right one, and that if the judge saw it that way, too, it would do Baldacci some good. Later in the conversation, Baldacci said that he knew the judge meant to retire soon, and he hoped that Lackey would consider joining Patterson-Baldacci on an off-counsel basis.

Lackey felt that the overture was greatly improper, possibly even criminal. He says that he recognized for nearly two weeks about the meeting, consulting another judge and a local prosecutor. He even discussed it with a former partner of Baldacci's, he says, "to see if I could discover what character they had seen in me to think that I would participate in something like that." He felt that he couldn't take the matter to the attorney general, Jim Hood—"That would be like speaking to Mr. Scroggs himself"—and finally he decided to go to Assistant U.S. Attorney John Fiallman, in Oxford, an old friend of Lackey's, who would urge Lackey to play it out with Baldacci. Lackey agreed to have his telephone and office wired for recording.

On May 4th, Baldacci faced Lackey and a proposed order that would have sent the Jones case to arbitration. By this point, the Scroggs side would have been happy to have an arbitrator disprove of the Jones matter, an option that Jones says he requested more than twenty times before he filed suit. On May 21st, Lackey telephoned Baldacci and said that he needed reassurance "I just want to hear you say it again, I guess. You and Scroggs only one know anything about this?"

"Absolutely, Judge," Baldacci replied. "Absolutely. There is nobody in this world, and but three folks in this world that know that I've even seen you. And it's me and you and him. And that's it." Baldacci went on to say that he didn't want the judge to do anything that made him uncomfortable.

Lackey asked whether Scroggs could be retained. If he played along, Lackey wondered, might Scroggs try to hold it over him somehow? "He said, 'that way,'" Baldacci responded.

THE NEW YORKER, MAY 9, 2008

Calls and meetings between Baldacci and the judge continued through the summer. Baldacci had broken the rules, and possibly the law, but he hadn't explicitly tried to bribe Lackey. There was no indication, other than Baldacci's word, that Scroggs was directly involved. By September, Lackey had agreed to try to press the case another step forward, determining, in essence, to select a judge.

In a conversation with Baldacci on September 18th, Lackey haltingly breeched the subject, until Baldacci urged him to "put the coin on the ground."

"If I help them," the judge asked, "would they help me?"

"I think no question that would help you," Baldacci replied. "Yes, sir. No question. When you want."

Lackey told Baldacci that he'd get himself into a fix, and he needed something to just hand help me over a little bump. "He couldn't quite bring himself to ask for money until a conversation three days later, he said, 'To get, to get me over a bump, I need help.'"

Lackey says that he hoped Baldacci would turn him down. "I just hoped against hope that I am would have said, 'Judge, you misunderstood me, and I'm sorry. I didn't mean to indicate that, and I was just messing. You forget that, and I'll go my merry way, and you have a good day,' or something like that."

Baldacci replied, "Forget O.K." Baldacci was now involved in a high-pressure attempt and what he did next drove the Scroggs firm into the crime. He decided to pay Lackey out of his firm's "club fund" (as Baldacci termed it), but he needed assurance that he and Patterson would be repaid. Baldacci says that he received that assurance from Sid Bakstrom, at the Scroggs firm (Bakstrom denies this). But Patterson wanted to be certain. He believed he knew how things really worked with Scroggs, so, he says, he got in touch

with the mysterious P. L. Blake. According to Patterson's account, he told Blake that he and Baldacci had taken care of "a problem" for Scroggs (he didn't say how) and that it had cost them forty thousand dollars. Blake met with Scroggs, and then reassured Patterson. (Scroggs denies that he reached.)

Scroggs later issued a check to Baldacci, from the amount of forty thousand dollars, ostensibly as payment for legal work on a Katrina case.

On November 1st, Baldacci drove to California City, and delivered the payment to the judge. As he left Lackey's office, he was confronted by F.B.I. agents. The agents produced a portable DVD player, and replayed for Baldacci a video of himself making a payment to Lackey. Lackey: "The agents then offered Baldacci a choice. 'You can go to Oxford, or you can go see Tom Dawson,' the Assistant U.S. Attorney. Baldacci, a former public defender, knew that Oxford meant the detention center. He said he would see Tom Dawson."

The agents drove Baldacci to the Exchange Professional Building, down the hill from the federal courthouse, in Oxford, entering the building through a basement door so that they wouldn't be seen. They escorted him to an interview room, where Dawson waited. Baldacci was told that his life as he knew it was over. "The only question is, will you see your children graduate from high school?" Dawson said. Baldacci did not hesitate. "What do you want me to do?"

Dawson asked Baldacci if he would wear a body wire, and go back into the Scroggs firm. Baldacci agreed. The rule was that Lackey had rewritten the arbitration order, and that Baldacci wanted to have the Scroggs team read it before the judge entered it. Less than three hours after being confronted by the F.B.I., Baldacci climbed the steps to the Scroggs office, where he proceeded to give what one defense member concurred was "a dazzling performance."

Baldacci saw Dickie Scroggs almost as soon as he arrived, but Scroggs stopped and said he had to take a call. Baldacci spent most of the next hour talking with the firm's secretaries, talking

about the L.S.U. Alabama game that weekend, and going over changes in the proposed order with Bakstrom and Zach Scroggs. "Get it how you want it," Baldacci said. "Cause we're paying for it to get it done right."

Finally, Dawson appeared, and after apologizing again, he brought Baldacci into his office. Scroggs was excited about some scandal photographs he had of damaged homes on the coast—additional evidence, he was certain, of insurance-company liability. Baldacci explained that he had a new order from Lackey, and that he wanted Scroggs to approve it. Scroggs looked it over. "That last sentence is not really a sentence," he said. "I think he needs a colon there."

Baldacci then posed the question that would decide Scroggs's fate. The judge was feeling "a little more exposed on the facts," Baldacci said. "Would Scroggs be willing to pay?" "How let or to more?"

Scroggs's secretary interrupted the conversation, to say that the governor of Delaware, Ruth Ann Winters, was on the line. Scroggs said he would call her back. "That's kind-of-rude," it sounds like, Baldacci said. "Sir," Scroggs reminded. "Don't know who that is?"

The two then returned to the critical question: "Do you want me to cover that, or not?" Baldacci asked. "I'll take care of it," Scroggs said.

On November 27th, Baldacci told his attorney to the federal grand jury in Oxford. As that scene proceeded, uninvited, two of Grady Tolbert's office workers stepped out to the balcony for a smoke, and noticed men wearing jackets and ties going in and out of the Scroggs firm, carrying boxes. It was an F.B.I. raid. The following day, the grand jury reported its indictment of Baldacci and Zach Scroggs, their partner, Sid Bakstrom, Steve Patterson, and Tim Baldacci. That afternoon, Scroggs and his wife were taken to the U.S. Marshall's office, and were fingerprinted, and later arraigned. (He pleaded not guilty.) Tom Dawson had recommended a bond, and was surprised—how do you set a bond amount for someone as rich as Scroggs? He decided to ask to have Scroggs's jet



"11/29, Jimmy Jarrubian I wanted Grand Theft Auto Number Four"

granted, and his request was granted. This became a minor issue a few days later, when the Scroggs legal team, led by John Kiker, of San Francisco, pleaded with the court for permission to use the plane. The request, issued on the evening of a former partner of Grady Tolbert's, identified the request, issuing an order that included a notation of consent. The order was signed by San Francisco and Memphis, seventy-five miles from Oxford.

It was clear to the Scroggs team that Baldacci, who was arraigned separately, had become a government witness. Patterson made a plea bargain with the government, leaving only the Scroggs men and Bakstrom as defendants.

On Friday, March 14th—just two weeks before the scheduled start of the trial—Scroggs arrived at the federal courthouse with Diane and his lawyer, Kiker. Diane went. Scroggs worked the room, greeting friends and colleagues, but the months after the indictment seemed to have diminished him to a slight, almost wary presence. Then judge Neal Biggers entered, and announced that a plea deal had been made. Dawson read the charge that Scroggs agreed to plead guilty on— one count of conspiracy to bribe Judge

PSR Filed in Original Proceeding UNDER SEAL
Docket No. 3:07CR00192-002

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1 UNITED STATES DISTRICT COURT
 2 NORTHERN DISTRICT OF MISSISSIPPI

3 UNITED STATES OF AMERICA . Cause No. 3:07CR192
 4 Plaintiff . Oxford, Mississippi
 5 v. . June 27, 2008
 6 SIDNEY A. BACKSTROM . 2:00 p.m.
 7 Defendant .
 8

9 SENTENCING AS TO COUNT 1 OF THE INDICTMENT
 10 BEFORE THE HONORABLE NEAL B. BIGGERS
 11 U.S. SENIOR DISTRICT JUDGE

12 APPEARANCES:

13 For the Government: United States Attorney's Office
 14 Northern District of Mississippi
 15 BY: THOMAS W. DAWSON, ESQ.
 16 BY: ROBERT H. NORMAN, ESQ.
 17 BY: DAVID A. SANDERS, ESQ.
 18 900 Jefferson Avenue
 19 Oxford, Mississippi 38655-3608

20 For the Defendant

21 Sidney A. Backstrom:
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 601-352-2300
 J. RHEA TANNEHILL, JR., ESQ.
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 Post Office Box 1383
 Oxford, Mississippi 38655
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26 Court Reporter:

27 Rita Davis Sisk
 28 911 Jackson Avenue, Room 369
 29 Oxford, Mississippi 38865
 30 (662) 416-2038

31 Proceedings recorded by mechanical stenography, transcript
 32 produced by computer.

1 who are suppose to be role models to law students and to other
2 students generally, young people, as to how they should conduct
3 themselves. And I'm glad to see that Mr. Backstrom saying that
4 he hopes his prison sentence will be a message to other people
5 as to what might happen to them and what should happen to them
6 if they violate the oaths as a member of the Bar and as an
7 officer of the Court.

8 The Court has been impressed by Mr. Backstrom's state of
9 mind regarding how he feels about this charge. I remember when
10 you pled guilty, ~~Mr. Backstrom~~; you were very remorseful at
11 that time. I ~~cannot~~ say that I have seen that type of remorse
12 with some of your co-defendants. So I take that into
13 consideration by -- from my observation of you.

14 There's one thing that I have not seen from you that I
15 thought I would see, and that is some kind of cooperation on
16 your part with the Government. They gave you a plea agreement
17 that provided you would have -- your sentence would be capped
18 at half of Mr. Scruggs' sentence, and that was based on assumed
19 cooperation from you. I understand there was a proffer of some
20 kind of cooperation before the plea agreement was made, but
21 there has been no cooperation.

22 MR. TRAPP: I think we've done what we've been asked
23 to do, Your Honor.

24 THE COURT: You think so?

25 MR. TRAPP: Yes, sir.

1 THE COURT: Well, I haven't heard any testimony or
2 any proffer from the Government about his knowledge of the
3 others' activities, especially one co-defendant I was
4 interested in.

5 MR. TRAPP: There has not been any knowledge of that
6 that he has, Your Honor.

7 THE COURT: Well -- all right. Well, I -- that's
8 what I -- rose in my -- the question rose in my mind from what
9 I've heard, and what I question about what he knew about the
10 other things. But based on that, I -- as I say, I will accept
11 the plea agreement.

12 And I know it's a -- it's a difficult thing for you,
13 Mr. Backstrom. I know about your family. I know how well they
14 are liked and respected by your neighbors. I've had letters
15 from them, also. And -- but, as Mr. Scruggs said this morning,
16 the last thing he said was that he hopes that he will be a
17 better man when this is over. And I hope you can be also.

18 Pursuant to the Sentencing Reform Act, it is the judgment
19 of the Court that the defendant, Sidney A. Backstrom, be
20 committed to the custody of the Bureau of Prisons to be
21 imprisoned for a term of 28 months on Count 1 of the
22 indictment. Upon release from imprisonment, he shall be placed
23 on supervised release for a term of three years.

24 There's certain strict conditions of conduct that you must
25 abide by, Mr. Backstrom, following your release from custody.

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI

UNITED STATES OF AMERICA

Cause No. 3:07CR192

Plaintiff

Oxford, Mississippi

v.

March 21, 2008

10:11 a.m.

DAVID ZACHARY SCRUGGS

Defendant

CHANGE OF PLEA AS TO COUNT 1 OF THE INFORMATION
BEFORE THE HONORABLE NEAL B. BIGGERS
U.S. SENIOR DISTRICT JUDGE

APPEARANCES:

For the Government:

United States Attorney's Office
Northern District of Mississippi
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BY: ROBERT H. NORMAN, ESQ.
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Proceedings recorded by mechanical stenography, transcript
produced by computer.

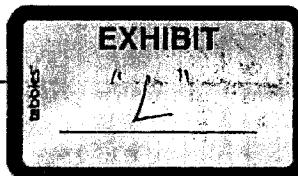


Exhibit X

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1 (Call to Order of the Court)

2 THE COURT: All right, gentlemen. In the case of the
3 U.S. v. David Zachary Scruggs, is there an announcement to be
4 made in that case?

5 MR. SANDERS: Yes, sir, Your Honor. The Government
6 would like to announce that the defendant has agreed to -- with
7 the Government to enter into a plea agreement in this matter.

8 THE COURT: All right. What -- so what is that -- is
9 the defendant ready to enter a plea?

10 MR. SANDERS: Yes, sir, Your Honor.

11 THE COURT: All right. Mr. Graves?

12 MR. GRAVES: Yes, Your Honor.

13 THE COURT: All right. Let him come up.

14 (Parties complying.)

15 THE COURT: All right. Mr. Scruggs, is your true
16 name David Zachary Scruggs?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: Now, the Court is informed that you wish
19 to change the plea that you previously entered to a plea of
20 guilty to another charge; is that correct?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: All right. According to this document
23 that's been furnished to me just this morning, this plea
24 agreement calls for you to waive indictment and to plead guilty
25 under oath to a one-count information, which charges the

Exhibit X

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3

1 misprision of a felony. Is that your intention?

2 THE DEFENDANT: Yes, sir, Your Honor.

3 THE COURT: All right. Do you understand that you
4 have not been indicted on the crime of misprision of a felony;
5 and you have the right, under the law, to have a grand jury to
6 hear the evidence and decide whether you should be officially
7 charged with misprision of a felony?

8 THE DEFENDANT: I do, Your Honor.

9 THE COURT: You want to waive that right?

10 THE DEFENDANT: Yes, sir, Your Honor.

11 THE COURT: All right. Have you signed the waiver of
12 indictment? Has it been signed yet?

13 MR. GRAVES: Not yet, Your Honor.

14 THE COURT: All right. Well, have you got that --
15 furnish that to the defendant.

16 MR. SANDERS: (Passing document.)

17 THE CLERK: (Passing document to the Court.)

18 THE COURT: Thank you. All right. Here you go. Put
19 that in the record.

20 All right. Before accepting your guilty plea, there are a
21 number of questions I will ask you to assure that it is a valid
22 plea. If you do not understand any of these questions or at
23 any time you wish to consult with your attorneys, you may let
24 me know.

25 The clerk will please swear the defendant.

Exhibit X

DAILY COPY

4

1 THE CLERK: (Oath administered.)

2 THE DEFENDANT: I do.

3 THE COURT: All right. Mr. Scruggs, do you
4 understand now that you are under oath and any answers to my
5 questions will be subject to the penalties of perjury if you do
6 not answer them truthfully?

7 THE DEFENDANT: I do, Your Honor.

8 THE COURT: All right. What is your age?

9 THE DEFENDANT: Thirty-three years old.

10 THE COURT: And how far did you -- you have a
11 bachelor degree and a law degree?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Are you presently under the influence of
14 any drugs, medicines, or alcohol?

15 THE DEFENDANT: No, Your Honor.

16 THE COURT: You think you fully understand what is
17 happening here today?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: All right. Mr. Graves, Mr. Moore, do
20 either of you have any doubt as to the defendant's competence
21 to enter a plea at this time?

22 MR. GRAVES: No, sir.

23 MR. MOORE: No, sir.

24 THE COURT: The Court finds that this defendant is
25 competent to enter a plea. Have you had an ample opportunity

Exhibit X

DAILY COPY

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1 to discuss this case with your attorneys?

2 THE DEFENDANT: I have, Your Honor.

3 THE COURT: Are you satisfied with your attorneys'

4 representation of you?

5 THE DEFENDANT: I am, Your Honor.

6 THE COURT: Do you believe that they have competently

7 represented your best interests in this case?

8 THE DEFENDANT: I do, Your Honor.

9 THE COURT: Do you understand that under the

10 Constitution and laws of the United States that you are

11 entitled to a trial by a jury on this charge?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: And do you understand that if you wish to

14 have a trial the -- you would be presumed to be innocent of

15 this charge and the Government would be required to prove you

16 guilty beyond a reasonable doubt before you could be found

17 guilty? Are you aware of that?

18 THE DEFENDANT: I am, Your Honor.

19 THE COURT: And do you understand that in the course

20 of a trial the witnesses for the Government would have to come

21 into Court and testify in your presence; that your attorney

22 could cross-examine the witnesses for the Government; they

23 could object to evidence offered by the Government and offer

24 other evidence in your behalf? Are you aware of that?

25 THE DEFENDANT: Yes, sir, Your Honor.

DAILY COPY

6

1 THE COURT: Do you further understand that if you
2 wish to testify in your own defense you have that right, but if
3 you chose not to testify no inference or suggestion of guilt
4 would be drawn by the fact that you did not testify? Are you
5 aware of that?

6 THE DEFENDANT: I am, Your Honor.

7 THE COURT: Now, if you plead guilty here today and I
8 accept your plea, do you understand that you're going to waive
9 your right to a trial; the other rights I've just discussed
10 with you; there will be no trial; and I will enter a judgment
11 of guilty and sentence you on the basis of your guilty plea
12 after considering a presentence report?

13 THE DEFENDANT: Yes, sir, Your Honor.

14 THE COURT: If you plead guilty here today, do you
15 also understand that you will also waive your right not to
16 incriminate yourself, which you're guaranteed by the Fifth
17 Amendment of the Constitution, because I will ask you questions
18 about what you did in order to satisfy myself that you are
19 guilty as charged? Do you understand that?

20 THE DEFENDANT: I do, Your Honor.

21 THE COURT: All right. Now, by your knowing what
22 you're waiving by pleading guilty at this time, do you still
23 want to go forward with this guilty plea?

24 THE DEFENDANT: I do, Your Honor.

25 THE COURT: Have you received a copy of this

Exhibit X

DAILY COPY

7

1 information?

2 THE DEFENDANT: I have, Your Honor.

3 THE COURT: It charges you with having knowledge of
4 the actual commission of a felony. You concealed it and did
5 not make known the same to some judge or other person in
6 authority under the United States law in violation of Title 18,
7 United States Code, Section IV. That's what you're charged
8 with. Have you discussed with your attorney this charge and
9 any defense that you might have to it?

10 THE DEFENDANT: I have, Your Honor.

11 THE COURT: All right. Now, before you could be
12 found guilty of this charge, the Government would have
13 to present evidence to the Court, to the jury, that four
14 elements occurred. First, that a felony, a federal felony, was
15 committed. Secondly, that you had knowledge of the commission
16 of that felony. Third, that you failed to notify an authority
17 as soon as possible. And fourth, that you committed an act, as
18 charged, to ~~conceal the crime.~~

19 Are you aware that the Government would have to prove all
20 four of those elements beyond a reasonable doubt before you
21 could be found guilty?

22 THE DEFENDANT: I am, Your Honor.

23 THE COURT: Do you have any questions about this
24 charge?

25 THE DEFENDANT: No, sir, Your Honor.

Exhibit X

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1 THE COURT: Do you understand the maximum possible
2 penalty under the law for this crime?

3 THE DEFENDANT: Yes, sir, Your Honor.

4 THE COURT: What's your understanding of it?

5 THE DEFENDANT: Three years.

6 THE COURT: All right. And also a \$250,000 fine.

7 THE DEFENDANT: That's correct, Your Honor.

8 THE COURT: And supervised release of up to a year.
9 Are you aware of that?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Has anyone threatened you or forced you
12 to plead guilty to this charge?

13 THE DEFENDANT: No, sir.

14 THE COURT: All right. Counsel have advised the
15 Court there is a plea agreement entered into. What is the
16 substance of that plea agreement, Mr. Sanders?

17 MR. SANDERS: Yes, sir. The defendant agreed to
18 waive indictment and plead guilty under oath to a one-count
19 information charging misprision of a felony. The United States
20 agrees not to charge the defendant with any other offenses
21 arising from or related to the above charges and agrees to
22 dismiss the original indictment upon conclusion of sentencing.

23 After being fully advised of all the facts and
24 circumstances of the defendant's involvement, the Government
25 will recommend a probated sentence. However, there is no

Exhibit X

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1 agreement as to the sentence to be imposed, which will be in
2 the sole discretion of the Court subject to the applicable
3 Federal Sentencing Guidelines which have been explained to the
4 defendant by his attorney. And both parties reserve their
5 right to speak at sentencing.

6 This agreement does not bind any prosecuting authority of
7 any state or any other federal district, nor does it bind the
8 Attorney General of the United States with regard to any
9 matter, criminal or civil, involving the federal tax laws.

10 The defendant is aware that if he violates this agreement
11 all statements made pursuant hereto will be admissible against
12 him. He hereby waives the provisions of Rule 11(f) of the
13 Federal Rules of Criminal Procedure and Rule 410 of the Federal
14 Rules of Evidence. He may also, in that event, be prosecuted
15 for all federal offenses, including perjury and false
16 statements related to this agreement.

17 Apart from being advised of the advisory nature of the
18 United States Sentencing Guidelines, no promise or
19 representation whatsoever has been made to the defendant. This
20 agreement fully reflects all the promises, agreements, and
21 understandings between the defendant and the United States
22 Attorney.

23 His agreement is knowing, free, and voluntary, not the
24 product of force, threat, or coercion. He is pleading guilty
25 because the defendant is in fact guilty of the charges. And

Exhibit X

1 that's essentially the substance of the plea agreement.

2 THE COURT: All right. Mr. Scruggs, you heard
3 Mr. Sanders state his understanding of the agreement that you
4 entered into with the Government. Did he accurately state it
5 as you understand it to be?

6 THE DEFENDANT: He did, Your Honor.

7 THE COURT: Mr. Graves --

8 MR. GRAVES: Yes, sir.

9 THE COURT: -- Mr. Garrett, is it the
10 understanding -- as you understand it to be? Mr. Moore?

11 MR. GARRETT: Yes, Your Honor.

12 MR. MOORE: Yes, Your Honor.

13 THE COURT: All right. Has anyone made any promise
14 to you in addition to this plea agreement to cause you to enter
15 a plea of guilty?

16 THE DEFENDANT: No, sir, Your Honor.

17 THE COURT: All right. You understand, Mr. Scruggs,
18 that any recommendation of sentence which the plea agreement
19 contains is not binding on this Court; and the Court can
20 sentence you up to the maximum three years which the law
21 provides for this?

22 THE DEFENDANT: Yes, sir, Your Honor.

23 THE COURT: All right. Has anyone made any
24 prediction what sentence you would receive?

25 THE DEFENDANT: No, sir, Your Honor.

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1 THE COURT: Did you, as charged in Count 1 of this
2 indictment, have knowledge of a felony, a federal felony,
3 having been committed and conceal it, not report it to the
4 authorities as required by law?

5 THE DEFENDANT: I did, Your Honor.

6 THE COURT: All right. Mr. Sanders, what evidence
7 would the Government be able to present as to this charge?

8 MR. SANDERS: Yes, sir. Should the present action go
9 to trial, the Government would show that on or about March 15th
10 of 2007 the defendant, along with Richard Scruggs and Sid
11 Backstrom, met with Steve Patterson and Tim Balducci and,
12 during this meeting, discussed Balducci's relationship with
13 Circuit Judge Henry Lackey.

14 At that time, Judge Lackey was presiding over a civil
15 matter styled *Jones v. Scruggs*. Also at that meeting, it was
16 decided that, because of his close relationship with Judge
17 Lackey, Tim Balducci would speak to the judge in an ex parte
18 manner and ask him to rule in favor of the defendants.
19 Everyone was aware that Balducci had not made an official entry
20 of appearance on behalf of the Scruggs Law Firm to represent
21 them in the matter.

22 Shortly thereafter, Balducci met with Judge Lackey and
23 discussed the *Jones v. Scruggs* lawsuit. Judge Lackey
24 subsequently contacted the United States Attorney's Office and
25 began working with the Government in an undercover capacity.

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1 Over the course of the next few months, Balducci met with
2 Judge Lackey on several more occasions, many of which were
3 recorded. And on October 18, Judge Lackey gave Balducci a
4 signed order ruling in favor of the defendants. Balducci then
5 drove the order from Judge Lackey's chambers in Calhoun City to
6 the Scruggs Law Firm in Oxford and left the order with the
7 defendant Zach Scruggs.

8 At this time, Scruggs was aware that the order would send
9 the *Jones v. Scruggs* matter to arbitration; and he was aware
10 that the plaintiffs were unaware of both Balducci's involvement
11 and that Judge Lackey's ruling was based in part on something
12 other than the merits of lawsuit, that is, Balducci's personal
13 relationship with Judge Lackey.

14 Scruggs was also aware that such an act deprived the state
15 of Mississippi of its intangible right to the honest services
16 of Judge Henry Lackey performed free from deceit, bias,
17 self-dealing, and concealment.

18 By November 1st, 2007, the order Balducci delivered to
19 Scruggs on October 18th had not yet been entered. On
20 November 1st, Balducci returned to the Scruggs Law Firm with
21 another order and, on this date, met with Zach Scruggs and Sid
22 Backstrom in Backstrom's office.

23 During this meeting, Balducci explained to both Scruggs
24 and Backstrom that the order he left with Scruggs on October
25 18th had not been entered because before the judge had time to

Exhibit X

1 file it the plaintiffs filed additional motions; and the judge
2 believed he needed to draft an order addressing these
3 additional filings.

4 Balducci, by this time, was cooperating with the United
5 States and was wearing an audio recorder. Both Scruggs and
6 Backstrom spent time examining the order and discussing its
7 contents. After receiving and examining the order, Scruggs
8 failed to inform the firm's counsel of record of the manner in
9 which the order had been obtained, thereby concealing this fact
10 from the plaintiffs, whom the firm's counsel would have been
11 bound to inform.

12 While it is not necessary that the defendant knew of this
13 fact, the Government would show that also on November 1st an
14 e-mail was sent via wire transmission in interstate commerce
15 from the Scruggs Law Firm to Tim Balducci containing documents
16 related to the order sending this case to arbitration.

17 Finally, the Government would show that the
18 above-described criminal activity took place in Lafayette
19 County, Mississippi, which is in the Northern Judicial District
20 of Mississippi.

21 THE COURT: Mr. Scruggs, did you do what the
22 prosecutor just described you as having done?

23 THE DEFENDANT: I did, Your Honor.

24 THE COURT: The Court finds there is a factual basis
25 for this defendant to plead guilty to this charge. Do you

1 plead guilty or not guilty to Count 1 of this information?

2 THE DEFENDANT: I plead guilty, Your Honor.

3 THE COURT: Since you acknowledge that you are
4 guilty; you know what your right is to a trial; you know what
5 the maximum possible punishment is; and then the Court's
6 finding you're voluntarily pleading guilty; the Court will
7 accept your guilty plea and enter a judgment of guilty on your
8 plea.

9 All right, now, I see from this plea agreement -- from
10 what counsel said, this plea agreement does not require the
11 defendant to cooperate with the Government on any other cases,
12 testify in any other cases?

13 MR. SANDERS: Yes, sir, Your Honor.

14 THE COURT: That's what it calls for?

15 MR. SANDERS: Yes, sir.

16 THE COURT: Do you have knowledge that he has
17 information on other cases?

18 MR. SANDERS: We have no knowledge that he has any
19 information on other cases at this time, Your Honor.

20 THE COURT: All right. Of course, this is quite a
21 difference of charges from six felony counts involving
22 conspiracy and the related counts down to one count of
23 misprision of a felony. If the prosecution thinks that's what
24 they want to charge him with now, the Court will -- that's the
25 prosecution's call.

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15

1 And the Court will consider this case, consider the facts
2 of the case, have a presentence report conducted, and determine
3 what would be the proper sentence under this particular charge
4 at a later date.

5 Put the defendant in touch with the probation officer
6 before you leave here today, and they'll start the presentence
7 report. Anything else?

8 MR. GRAVES: Your Honor, could the defendant speak
9 briefly?

10 THE COURT: Pardon?

11 MR. GRAVES: Could Mr. Scruggs speak briefly to the
12 Court?

13 THE COURT: Yes.

14 THE DEFENDANT: Thank you, Your Honor. This is my
15 first time to be before Your Honor in Court, and no one is
16 sorrier than I that it's under these circumstances. I'd like
17 to start out by telling the Court, and the public, that I had
18 no knowledge that Tim Balducci bribed Judge Lackey in
19 connection with this arbitration order. I didn't conspire to
20 bribe Judge Lackey in connection with an arbitration order, and
21 I would have stopped it had I known.

22 However, I did have some knowledge that Tim Balducci had a
23 close personal relationship with Judge Lackey, and that he used
24 that personal relationship to have improper ex parte contacts
25 with the judge regarding the order. Such improper contacts, if

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1 left unchecked, can -- and in this case did -- deprive the
2 people of the state of Mississippi of fair and honest services.

3 As a member of the Mississippi Bar, and as an officer of
4 the Court, I had a duty to prevent such contacts from occurring
5 and to report them; and I failed to do so. I am truly and
6 humbly sorry for that; and I apologize to the Court, to the
7 legal profession I love so deeply, and to the people of the
8 state of Mississippi.

9 I'm here today to accept full responsibility for my acts
10 and prepared to accept the full consequences, both from this
11 Court and the Mississippi Bar. We, as members of the Bar, have
12 high standards we have to live up to. And it's not just enough
13 that we not engage in ex parte contact or unethical contact; we
14 have a duty to prevent others from doing so. And I failed to
15 do so in this particular case.

16 I hope that the profession and the Mississippi Bar will
17 learn from and benefit from my failure, and that it will -- my
18 actions here today will improve the Mississippi Bar Association
19 for the better. And may God save this Court and our honorable
20 profession. Thank you, Your Honor.

21 THE COURT: All right, Mr. Scruggs. Of course, the
22 legal profession that you say you love so much, you will not be
23 a part of it the rest of your life. You understand that?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: Okay. The Court will accept your

Exhibit X

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1 statement and consider it, along with all the other evidence,
2 as well as the sentencing guidelines involved in a case such as
3 this; and you'll be notified of the exact date of sentencing.
4 I'm not going to set that date at this time. But you'll be
5 notified. It'll probably be within six weeks or a couple of
6 months, maybe six weeks, 6 to 8 weeks.

7 And Counsel, of course, will be notified. And you can
8 keep that road hot between here and Kansas City as you have
9 been doing for the last several weeks. All right, Mr. Graves,
10 put him in touch with the probation office; and with that
11 understanding, then, you may be excused until you're ordered to
12 be back.

13 THE DEFENDANT: Thank you.

14 MR. GRAVES: Thank you, Your Honor.

15 THE COURT: All right. If there's nothing further,
16 we'll be in recess.

17 (THE SENTENCING ENDED AT 10:32 a.m.)
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C E R T I F I C A T E

I, Rita Davis Sisk, RPR, BCR, CSR #1626, Official Court Reporter for the United States District Court, Northern District of Mississippi, was present in court during the foregoing matter and reported said proceedings stenographically.

I further certify that thereafter, I, Rita Davis Sisk, RPR, BCR, CSR #1626, have caused said stenographic notes to be transcribed via computer, and that the foregoing pages are a true and accurate transcription to the best of my ability.

Witness my hand, this 21st day of March, 2008.



RITA DAVIS SISK, RPR, BCR, CSR #1626
Official Court Reporter